

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FILED-CLERK
DISTRICT COURT
05 DEC 29 PM 3:21
77 EASTERN-MARSHALL

MARVIN CARTER,
Plaintiff,

v.

AEP ENERGY SERVICES, INC.,
d/b/a AMERICAN ELECTRIC
POWER CO., INC., and AEP TEXAS
CENTRAL COMPANY, AEP TEXAS
NORTH COMPANY, d/b/a
CENTRAL & SOUTHWEST CORP.
Defendants

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CIVIL ACTION NO. 2-05CV-563
JURY

**DEFENDANTS' AEP ENERGY SERVICES, INC., AEP TEXAS CENTRAL COMPANY
AND AEP TEXAS NORTH COMPANY FIRST AMENDED NOTICE OF REMOVAL**

Defendants AEP Energy Services, Inc., AEP Texas Central Company and AEP Texas North Company (hereinafter referred to as "Defendants") hereby remove this cause from the 76/276th Judicial District Court of Morris County, Texas to the United States District Court for the Eastern District of Texas, Marshall Division, on the grounds of federal question jurisdiction based on the following:

1. On December 5, 2005, this action was filed in the 76/276th Judicial District Court of Morris County, Texas bearing Cause Number 22,999 and styled "Marvin Carter v. AEP Energy Services, Inc., d/b/a American Electric Power Co., Inc., AEP Texas Central Company, AEP Texas North Company d/b/a Central and Southwest Corp." There are three defendants named in the suit. They are (i) AEP Energy Services, Inc., (referred to in Plaintiff's Original Petition as "AEP Energy Services, Inc., d/b/a American Electric Power Co., Inc.") (ii) AEP Texas Central Company and (iii) AEP Texas North Company (referred to in Plaintiff's Original Petition as "AEP Texas North Company d/b/a Central and Southwest Corp.") Citation was

issued on December 5, 2005. All Defendants thereafter were served by certified mail that was postmarked December 5, 2005, and received by agent for service for all Defendants on December 7, 2005.

2. As indicated above, prior to this removal, the case was pending in the aforementioned state court, the 76/276th Judicial District Court of Morris County, Texas located at 500 Broadnax, Daingerfield, Texas 75638.

3. This is an employment discrimination case in which Plaintiff claims he was discharged because of his age. In Plaintiff's Original Petition, Plaintiff asserts a cause of action against the three Defendants under the Age Discrimination in Employment Act, 29 U.S.C. Sections 621-634 ("ADEA"), a federal statute. See "Cause of Action" Section of Plaintiff's Original Petition, attached as Exhibit C hereto. Federal district courts have jurisdiction over cases "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. Section 1331. Again, the ADEA is a law of the United States.

4. Because Plaintiff asserts this federal claim, federal question jurisdiction exists and, accordingly, this action is an action that may be removed to this Court pursuant to 28 U.S.C. Section 1441(b).

5. All three Defendants in this action, AEP Energy Services, Inc., AEP Texas Central Company and AEP Texas North Company, join in this removal. All three Defendants are represented by the undersigned counsel. The Plaintiff, Marvin Carter, the only other party to this case, is represented by:

D. John Leger
5718 Westheimer, Suite 1525
Houston, Texas 77057
713-781-5932 (Telephone)
713-781-4186 (Telecopier)
Texas State Bar No. 12168000

6. This notice is being filed within 30 days after service upon the first-served defendant of a copy of Plaintiff's Original Petition and Citation and, accordingly, has been timely filed under 28 U.S.C. § 1446(b).

7. Under 28 U.S.C. § 1441(a), venue of the removed action is proper in this Court as the district and division embracing the place where the action is pending.

8. As provided for by Rule CV-81 of the Local Court Rules for the Eastern District of Texas, attached to this First Amended Notice of Removal and incorporated herein are the following: (1) a document setting forth (a) a list of all parties in the case and the current status of the removed case, (b) a complete list of all attorneys in the action being removed including each attorney's bar number, address, telephone number and parties represented by that attorney, (c) a list of those parties which have requested a trial by jury; and (d) the name and address of the court from which the case is being removed (see Exhibit A attached hereto); (2) a copy of all process served on the Defendants removing the case (see Exhibit B attached hereto); (3) Plaintiff's Original Petition (the only pleading filed in the case) (see Exhibit C attached hereto); and (4) a certified copy of the state court's docket sheet (see Exhibit D attached hereto). In the state court action, there have been no answers filed or orders served on the parties removing the case. A civil cover sheet was furnished to the clerk at the time of the filing of the original notice of removal.

9. As reflected in Plaintiff's Original Petition, Plaintiff has requested trial by jury. No other party has made such a request.

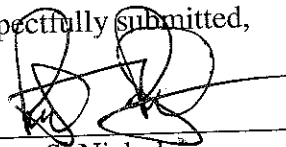
10. Defendants will promptly give Plaintiff written notice of the filing of this first amended notice of removal and are today filing a copy of that notice together with a copy of this first amended notice of removal and attachments with the Clerk of the State Court.

11. Defendants filed their original notice of removal on December 28, 2005. Defendants file this amended notice of removal to correct an error in the caption to the original notice of removal. While the error was non-substantive, Defendants nevertheless file this amended notice to correct the error. "A defendant may freely amend a notice of removal within the thirty day period set out in 28 U.S.C. § 1446(b)." *Wormley v. Southern Pacific Transp. Co.*, 863 F. Supp. 382, 385 (E.D. Tex. 1994); *see also Strauss v. American Home Prods. Corp.*, 208 F. Supp.2d 711, 717-718 (S.D. Tex. 2002) (same); *Spillers v. Tillman*, 959 F. Supp 364, 372 (S.D. Miss. 1997) ("a defendant is free to amend a notice of removal within the 30-day period"). Since no defendant in this case received service of the petition and citation until December 7, 2005, Defendants are still well within the 30-day period within which they are free to amend their notice of removal.

Dated: December 29, 2005

OF COUNSEL:
BRACEWELL & GIULIANI LLP

Respectfully submitted,



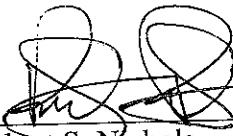
Robert S. Nichols
Attorney-in-Charge
State Bar No. 15006400
711 Louisiana, Suite 2300
Houston, Texas 77002
Telephone No.: (713) 223-2300
Telecopy No.: (713) 221-1212
E-mail address: bob.nichols@bracewellgiuliani.com

ATTORNEY FOR DEFENDANTS AEP ENERGY
SERVICES, INC., AEP TEXAS CENTRAL
COMPANY AND AEP TEXAS NORTH
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendants' AEP Energy Services, Inc., AEP Texas Central Company, and AEP Texas North Company First Amended Notice of Removal has been sent to counsel of record by certified mail on this the 29th day of December, 2005, as follows:

D. John Leger
5718 Westheimer, Suite 1525
Houston, Texas 77057-5832



Robert S. Nichols

EXHIBIT "A"

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MARVIN CARTER,
Plaintiff,

v.

**AEP ENERGY SERVICES, INC.,
d/b/a AMERICAN ELECTRIC
POWER CO., INC., and AEP
TEXAS CENTRAL COMPANY,
AEP TEXAS NORTH COMPANY,
d/b/a CENTRAL & SOUTHWEST
CORP.**

Defendants

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**CIVIL ACTION NO. 2-05CV-563
JURY**

**DEFENDANTS' AEP ENERGY SERVICES, INC., AEP TEXAS CENTRAL
COMPANY and AEP TEXAS NORTH COMPANY DISCLOSURE TO THE
CLERK OF COURT UNDER LOCAL RULE CV-81**

Defendants, AEP Energy Services, Inc., AEP Texas Central Company and AEP Texas North Company, provide the following information to the Clerk of Court, as required by Local Rule CV-81:

i) List of Parties to the Case

Marvin Carter
Plaintiff

AEP Energy Services, Inc. (referred to in Plaintiff's Original Petition as "AEP Energy Services, Inc., d/b/a American Electric Power Co., Inc.");
AEP Texas Central Company; and
AEP Texas North Company (referred to in Plaintiff's Original Petition as "AEP Texas North Company d/b/a Central and Southwest Corp.")
Defendants

ii) Current Status of Removed Case

Pending

iii) Attorneys Involved in the Action

Attorney for Plaintiff Marvin Carter:

D. John Leger
Leger & Burke, P.C.
5718 Westheimer, Suite 1525
Houston, Texas 77057
713-781-5932 (Telephone)
713-781-4186 (Telecopier)
Texas State Bar No. 12168000

Attorney for Defendants AEP Energy Services, Inc., AEP Texas Central
Company and AEP Texas North Company:

Robert S. Nichols
Bracewell & Giuliani LLP
711 Louisiana Street, Suite 2300
Houston, Texas 77002
713-221-1259 (Telephone)
713-221-1212 (Telecopier)
Texas State Bar No. 15006400
E-mail address: bob.nichols@bracewellgiuliani.com

iv) Parties Who Have Requested a Jury

Plaintiff, Marvin Carter

v) Name and Address of the Court From Which the Action is Being Removed

76th/276th Judicial District Court of Morris County, Texas
500 Broadnax, Daingerfield, Texas 75638


vi) Motions Pending in State Court

None

Dated: December 29, 2005

Respectfully submitted,

OF COUNSEL:
BRACEWELL & GIULIANI LLP



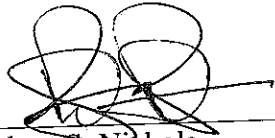
Robert S. Nichols
Attorney-in-Charge
State Bar No. 15006400
711 Louisiana, Suite 2300
Houston, Texas 77002
Telephone No.: (713) 223-2300
Telecopy No.: (713) 221-1212
E-mail address: bob.nichols@bracewellgiuliani.com

ATTORNEY FOR DEFENDANTS AEP ENERGY
SERVICES, INC., AEP TEXAS CENTRAL
COMPANY AND AEP TEXAS NORTH
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendants' AEP Energy Services, Inc., AEP Texas Central Company, and AEP Texas North Company Disclosure to the Clerk of Court Under Local Rule CV-81 has been sent to counsel of record by certified mail on this the 29th day of December, 2005, as follows:

D. John Leger
5718 Westheimer, Suite 1525
Houston, Texas 77057-5832



Robert S. Nichols

EXHIBIT "B"

CITATION BY CERTIFIED MAIL
CAUSE NO. 22,999

CLERK OF COURT

Gwen Oney
500 Broadnax
Daingerfield, TX 75638

ATTORNEY FOR PLAINTIFF/PLAINTIFF

D. John Leger
5718 Westheimer, Suite 1525
Houston, TX 77057-5832

STATE OF TEXAS
COUNTY OF MORRIS
Certified to be a true and correct copy
of the original in my custody
Gwen Oney
Gwen Oney Clerk of District
Court

THE STATE OF TEXAS

By _____ Deputy

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

TO: AEP ENERGY SERVICES, INC., d/b/a AMERICAN ELECTRIC POWER CO., INC. Registered Agent: C.T. Corporation, 350 N. St. Paul Street, Dallas, TX 75201

DEFENDANT GREETINGS:

You are commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before ten o'clock a.m. (10:00 a.m.) of the Monday next after the expiration of twenty (20) days after the date of service of this citation before the Honorable 76/276TH District Court of Morris County, Texas at the Courthouse of said County in Daingerfield, Texas

Said Plaintiff's Petition was filed in said court on the 5th of December, A.D., 2005 numbered 22,999 on the docket of said court, and styled:

MARVIN CARTER
VS.

AEP ENERGY SERVICES, INC., d/b/a AMERICAN ELECTRIC POWER CO., INC. AND
AEP TEXAS CENTRAL COMPANY, AEP TEXAS NORTH COMPANY d/b/a CENTRAL & SOUTHWEST CORP.

The nature of Plaintiff's demand is fully shown by a true and correct copy of PLAINTIFF'S ORIGINAL PETITION accompanying this citation and made a part thereof.

The officer executing this writ shall promptly mail the same according to the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Daingerfield

Attest: GW
Morris Court

By: _____

CERTIFICATE OF DELIVERY

I hereby certify that on the 5th of December, 2005, at 5:00 o'clock P.M. certified mail, with delivery restricted to addressee only return receipt copy of the petition attached thereto

Deputy

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

12-5-05

Postmark
Here

22,999

Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

AEP Energy Services Inc.

CITATION BY CERTIFIED MAIL
CAUSE NO. 22,999

CLERK OF COURT

Gwen Oney
 500 Broadnax
 Daingerfield, Texas 75638

ATTORNEY FOR PLAINTIFF/PLAINTIFF

D. John Leger
 5718 Westheimer, Suite 1525
 Houston, Tx 77057-5832

STATE OF TEXAS
 COUNTY OF MORRIS

Certified to be a true and correct copy
 of the original in my custody

Gwen Oney
 Gwen Oney Clerk of District
 Court

THE STATE OF TEXAS

By _____ Deputy

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

IO: AEP Texas Central Co./AEP Texas North Co. d/b/a Central & Southwest Corp., Registered Agent: C.T. Corporation, 350 N. St. Paul Street, Dallas, Tx 75201

DEFENDANT GREETINGS:

You are commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before ten o'clock a.m. (10:00 a.m.) of the Monday next after the expiration of twenty (20) days after the date of service of this citation before the Honorable 76/276TH District Court of Morris County, Texas at the Courthouse of said County in Daingerfield, Texas

Said Plaintiff's Petition was filed in said court on the 5th of December, A.D., 2005 numbered 22,999 on the docket of said court, and styled:

**MARVIN CARTER
 VS.**

**AEP ENERGY SERVICES, INC., d/b/a AMERICAN ELECTRIC
 POWER CO., INC. AND AEP TEXAS CENTRAL COMPANY, AEP
 TEXAS NORTH COMPANY d/b/a CENTRAL & SOUTHWEST
 CORP.**

The nature of Plaintiff's demand is fully shown by a true and correct copy of PLAINTIFF'S ORIGINAL PETITION accompanying this citation and made a part thereof.

The officer executing this writ shall promptly mail the same as mandates thereof, and make due return as the law directs

Issued and given under my hand and seal of said Court at Daingerfield

Attest: GV
 Morris County

By: *[Signature]*

CERTIFICATE OF DELIVERY

I hereby certify that on the 5th of December, 2005, at 5:00 o'clock P.M. certified mail, with delivery restricted to addressee only, return receipt copy of the petition attached thereto

Deputy

**U.S. Postal Service
 CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)**

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

12-5-05
 Postmark
 Here

22,999

Sent To	AEP Tx Central Co. & AEP Tx North Co.
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits. <i>22,999</i></p>		<p>A. Signature X <i>DEC 07 2005</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><i>AEP TX Central Co. & AEP TX North Co. Registered Agent C.T. Corp. 350 N. St. Paul Street Dallas, Tx 75201</i></p>		<p>B. Received by (Printed Name) <i>CT CORPORATION</i> C. Date of Delivery</p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number <i>7001 2510 0009 1443 4643</i> (Transfer from service)</p>			
PS Form 3811, August 2001		Domestic Return Receipt 102595-02-M-1540	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits. <i>22,999</i></p>		<p>A. Signature X <i>DEC 07 2005</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><i>AEP Energy Services Inc. Registered Agent C.T. Corp. 350 N. St. Paul Street Dallas, Tx 75201</i></p>		<p>B. Received by (Printed Name) <i>CT CORPORATION</i> C. Date of Delivery</p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number <i>7001 2510 0009 1443 4650</i> (Transfer from service label)</p>			
PS Form 3811, August 2001		Domestic Return Receipt 102595-02-M-1540	

EXHIBIT "C"

FILED FOR RECORD
AT 10:00 O'CLOCK A M

DEC 05 2005

GWEN ONEY
DISTRICT CLERK, MORRIS COUNTY
IN THE DISTRICT COURT DEPUTY

CAUSE NO 22,999

MARVIN CARTER

§

vs

§

AEP ENERGY SERVICES, INC.,
d/b/a AMERICAN ELECTRIC POWER
CO., INC. and
AEP TEXAS CENTRAL COMPANY,
AEP TEXAS NORTH COMPANY,
d/b/a CENTRAL & SOUTHWEST CORP

§

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MORRIS COUNTY, TEXAS

76/276TH JUDICIAL DISTRICT

ORIGINAL PETITION

STATE OF TEXAS
COUNTY OF MORRIS
Certified to be a true and correct copy
of the original in my custody
Gwen Oney
Gwen Oney, Clerk of Dist
Court

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW MARVIN CARTER (hereafter CARTER), Plaintiff, By Deput

AEP ENERGY SERVICES, INC., d/b/a AMERICAN ELECTRIC POWER CO., INC., AEP
TEXAS CENTRAL COMPANY and/or AEP TEXAS NORTH COMPANY d/b/a
CENTRAL & SOUTHWEST CORP., Defendants, and for cause of action would show:

Discovery Control Plan

Pursuant to Tex. R. Civ P. 190, *et seq.*, discovery will be conducted under Level 3.

Parties

MARVIN CARTER ["Carter"], is an individual residing in Morris County, Texas.

Defendant, AEP ENERGY SERVICES, INC., d/b/a AMERICAN ELECTRIC
POWER CO., INC., are foreign business corporations doing business in Morris County,
Texas, where service of citation may be had by service on the registered agent for service,

CI Corporation, 350 N St Paul Street, Dallas, TX 75201.

Defendants, AEP TEXAS CENTRAL COMPANY, and AEP TEXAS NORTH COMPANY, d/b/a CENTRAL & SOUTHWEST CORP., are domestic corporations doing business in Morris County, Texas, where service of citation may also be had by service on registered agent for service, CI Corporation, 350 N. St Paul Street, Dallas, TX 75201.

Venue

The conduct made the basis of this action occurred in whole or in part in Morris, County, Texas, and therefore, venue is proper in this county.

Cause of Action

Defendant is an "employer" as that term is defined in the Texas Commission on Human Rights Act ["TCHRA"] and the Age Discrimination in Employment Act ["ADEA"], employing more than five hundred (500) "employees", as that term is defined in the TCHRA and the ADEA, during the times relevant to the matters made the basis of this lawsuit.

On February 28, 2005, CARTER was fired from his job with Defendants as a Material Planner. At the time of his firing, CARTER had worked for Defendants for more than 25 years. He was experienced and the most qualified person in the company to perform his job. Over the 25 years period of his employment, CARTER never received a warning of poor job performance or a warning of termination. On the contrary, he was repeatedly told his performance was good and he was universally recognized at the company as the most knowledgeable person in his job. Suddenly, without prior notice of any kind, CARTER was

relieved from his job duties and reassigned to a place where he had virtually no duties. He was further told that he could not perform *any* of his prior duties, even if asked to do so by co-employees in need of his services. Then, on February 28, 2005, CARTER was discharged; again, without notice of any kind; and further, without a stated reason or cause

At the time of his discharge, CARTER was 58 years of age. His duties were assigned to one or more persons who are believed to be under 40 years of age and considerably less experienced. Since his discharge, CARTER continues to receive requests from his younger successors on how to perform the job's duties. To his credit, CARTER has provided the help requested.

Age Discrimination – TCHRA

The conduct of Defendants, as set out herein, constitutes violations of the TCHRA in that Defendants discriminated against CARTER because of his age. CARTER's age was a motivating factor in Defendants' decision to terminate CHARTER's employment.

TCHRA Damages

As a result of Defendants' age discrimination, CARTER has suffered damages by way of loss of back pay and benefits, front pay and benefits, and other pecuniary and non-pecuniary compensatory damages in the past and in the future. Such damages include mental anguish, emotional distress, humiliation, and loss of enjoyment of life.

Additionally, this discrimination was carried out with malice or reckless indifference to CHARTER's state protected rights and therefore justifies an award of punitive damages.

Age Discrimination – ADEA

The conduct of Defendants, as set out herein, constitutes violations of the TCHRA in that Defendants discriminated against CARTER because of his age. CARTER's age was a motivating factor in Defendants' decision to terminate CARTER's employment

ADEA Damages

As a result of Defendants' age discrimination, CARTER has suffered damages by way of loss of back pay and benefits, front pay and benefits, and other pecuniary and non-pecuniary compensatory damages in the past and in the future. Such damages include mental anguish, emotional distress, humiliation, and loss of enjoyment of life.

Additionally, this discrimination was carried out willfully and therefore justifies an award of liquidated damages.

Attorney's Fees

The conduct of Defendants, as described herein, has made it necessary for CARTER to employ the undersigned attorney to file and prosecute this legal action. Accordingly, CARTER seeks a reasonable attorney fee for the services rendered and to be rendered pursuant to the TCHRA and ADEA, which statutes allow for the recovery of attorney fees, costs and expenses.

Administrative Prerequisites

CARTER has performed all conditions precedent to bringing this cause of action under the TCHRA and the ADEA. CARTER timely filed a charge of discrimination with

the Equal Employment Opportunity Commission [EEOC] and consequently, by deferral, with the Texas Commission on Human Rights [TCHR] on or about February 28, 2005, a time within one hundred-eighty (180) days from the date he learned of his termination. A copy of that charge is attached hereto as Exhibit "A". CARTER received a Notice of Right to Sue from the EEOC on or after September 6, 2005. The Notice of Right to Sue is attached hereto as Exhibit "B". CARTER received a Notice of Right to Sue from the TCHR a Notice of Right to Sue from the TCHR sometime on or after September 6, 2005.

CARTER timely filed this lawsuit.


Jury Demand

CARTER demands a jury on issues to be tried in this matter and submits herewith the Jury Fee.

Prayer

WHEREFORE, Plaintiff, MARVIN CARTER, requests that Defendants, AEP ENERGY SERVICES, INC., d/b/a AMERICAN ELECTRIC POWER and AEP TEXAS CENTRAL COMPANY, and AEP TEXAS NORTH COMPANY, d/b/a CENTRAL & SOUTHWEST CORP., be cited to appear and that upon final trial he be awarded judgment against Defendants for actual damages, punitive damages, reasonable attorney's fees, costs of suit, pre-judgment interest and post-judgment interest at the highest legal rate, and such other and further relief, whether general or special, legal or equitable, to which he is justly entitled.

Respectfully submitted,
LEGER & BURKE, P.C.



D. John Leger
State Bar of Texas #12168000
5718 Westheimer , Suite 1525
Houston, Texas 77057-5832
Telephone: (713) 781-5932
Telecopier: (713) 781-4186

ATTORNEY FOR PLAINTIFF
MARVIN CARTER

EXHIBIT "D"

[illegible]